

REMARKS

This Amendment is in response to the Office Action mailed April 17, 2008. In the Office Action, claims 1-3, 5-10, 12-13, 15-21 and 24-27 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,157,719 (Wasilewski). Withdrawal of the outstanding rejection is respectfully requested in light of the remarks set forth below.

Request for a Telephone Conference

Applicant respectfully requests that the Examiner contact the attorney identified below to coordinate a telephone conference if the pending claims are still not considered to be allowable by the Examiner. The Examiner agreed to a telephone conference, but failed to coordinate the telephone conference due to supervisor scheduling issues. The telephone conference would greatly facilitate the prosecution of the subject application.

Rejection Under 35 U.S.C. §102

Claims 1-3, 5-10, 12-13, 15-21 and 24-27 were rejected under 35 U.S.C. § 102(e) as being anticipated by Wasilewski (U.S. Patent No. 6,157,719). Applicant respectfully traverses the rejection because a *prima facie* case of anticipation has not been established.

As the Examiner is aware, to anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Vergegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Herein, all of the claim limitations set forth in the above-noted claims are not found in Wasilewski.

For instance, with respect to claim 1, Applicant respectfully submits that the DHCT 333 of Wasilewski should not be construed as the mating key lookup table. As claimed, the mating key lookup table comprises (i) a first group of entries forming a range of mating key generators for digital devices supplied by each supplier of a plurality of suppliers including the supplier, and (ii) a second group of entries corresponding to the first group of entries, each entry of the second group of entries including at least one mating key uniquely corresponding to and partially formed by one of the mating key generators.

First, the Examiner has now interpreted the "mating key generator" as yet another element, namely the EMM as set forth on page 4 of the Office Action that recites col. 15, lines 7-20 and col. 20, lines 35-50 as support. However, the EMMs are not stored within the DHCT 333 of Wasilewski, and thus, cannot be properly construed as mating key generators.

Second, Applicant respectfully submits that each entry of the second group of entries fails to include at least one mating key uniquely corresponding to and formed at least a portion of one

of one of the mating key generators. *See page 5 of the Office Action.* More specifically, the Examiner contends that col. 24, lines 21-34 and FIG. 6 of Wasilewski describe this limitation, but in contrast, col. 24, lines 21-34 of Wasilewski describes that the unique identifier of the CAA is “associated” with a private key. Wasilewski does not describe that the mating key, apparently now the private key, being *formed* by a portion of the EMM. Rather, the private key is associated with the unique identifier (i.e., there is one private key for each different identifier).

As repeatedly stated, the mating key generator is a specific message construction as explicitly claimed that is used to form the mating key, and clearly, the EMM provided to the DHCT device of Wasilewski is not a mating key generator message and is not used to form mating keys.

Withdrawal of the outstanding §102(e) rejection as applied to claim 1 is respectfully requested.

With respect to claims 2-3 and 5-10, Applicant respectfully traverses the rejection, but since these claims are dependent on claim 1, believed by Applicant to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments in an Appeal is warranted. Withdrawal of the §102 rejection as applied to claims 2-3 and 5-10 is respectfully requested.

With respect to independent claim 12, Applicant respectfully traverses the rejection and submits that the DHCT 333 of Wasilewski does not constitute the non-volatile storage unit as claimed. Herein, Applicant has previously amended claim 12 to include limitations that explicitly recite the mating key being formed using at least a portion of the mating key generator with the “mating key generator” being “a message that comprises an identifier of the manufacturer of the digital device.” Again, the Examiner has mistakenly relied on an improper claim interpretation for the “mating key generator,” which is now considered by the Examiner to be the EMM. *See Page 4 of the Office Action.*

As the Examiner is aware, the EMM is not configured for use in formulating any mating keys, namely keys used to encrypt a program key. Rather, the EMM is a particular type of message that includes certain information for use in decrypting content. There is no storage of a range of these messages on a supplier basis and the storage of mating keys uniquely corresponding to one of the particular mating key generators and formed with a portion thereof.

Hence, Wasilewski does not teach each and every limitation set forth in independent claim 12, and thus, the outstanding §102(e) rejection should be withdrawn.

With respect to claims 13 and 15-20, Applicant respectfully traverses the rejection, but since these claims are dependent on claim 12, believed by Applicant to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments in an Appeal is warranted. Withdrawal of the §102 rejection as applied to dependent claims 13 and 15-20 is respectfully requested.

With respect to independent claim 21, Applicant respectfully traverses the rejection and submits that the secure content delivery system as claimed are not taught by (or even rendered obviousness by) Wasilewski. Herein, Applicant had previously amended claim 21 to include the limitations of the mating key generator *being a message that comprises an identifier of a supplier of one of the digital devices* and the mating key generator *undergoing a hash operation to produce the requested mating key*. Emphasis added.

Applicant respectfully point out that the Examiner has failed to address the presence or lack of presence of this limitation within Wasilewski. *See page 8 of the Office Action*. Hence, Applicant respectfully submits that a *prima facie* case of anticipation has not been established and respectfully requests the Examiner to withdraw the outstanding rejection as applied to claim 21.

With respect to claims 24-26, Applicant has amended these claims to now depend on independent claim 21, which is believed by Applicant to be in condition for allowance. Hence, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments in an Appeal is warranted. Withdrawal of the §102 rejection as applied to dependent claims 21 and 24 26 is respectfully requested.

With respect to independent claim 27, the Office Action recites that Wasilewski teaches “receiving a serial number being used to locate an one-time programmable value,” “computing a mating key by performing a computation on the mating key generator and the one-time programmable value to produce the mating key,” and “outputting the mating key based on the mating key generator being a message including at least one of (i) a first identifier to identify a manufacturer of the digital device, (ii) a service provider identifier, [(iii) a conditional access provider identifier,] and (iv) a mating key sequence number....” *See page 9 of the Office Action*. Applicant disagrees that such teachings are provided by Wasilewski and notes that, for the record, the Examiner already stated that Wasilewski did not feature many of these limitations. *See page 14 of the Office Action mailed October 17, 2007*.

Again, Applicant respectfully submits that Wasilewski fails to describe the above-cited limitations. As an example, for claim 27, the mating key generator is now considered to be equivalent to the DHCT private key recited on col. 7, lines 7-11 of Wasilewski. *See page 9 of the Office Action*. However, the Examiner previously considered an EMM as the mating key generator. *See page 4 of the Office Action*. Applicant respectfully submits that this inconsistent interpretation seemingly supports Applicant’s position that the outstanding rejections were and are based on impermissible hindsight reconstruction.

As another example, the serial number of Wasilewski is not used to locate a one-time programmable value. The serial number is provided so that the “demultiplexer 230 can select an encrypted multi-session key addressed to decoder 240.” *See col. 7, lines 9-11 of Wasilewski*. However, the serial number is not used to locate a one-time programmable value as claimed.

Also, Applicant respectfully submits that Wasilewski fails to describe the operation of “computing a mating key by performing a computation on the mating key generator and the one-

time programmable value to produce the mating key.” The Examiner recites col. 25, lines 4-26 of Wasilewski as support for the teachings of this limitation. However, this recitation is devoid of any computation of a mating key by performing a computation on the mating key generator (DHCT private key) and the one-time programmable value, which has not been explicitly defined by the Examiner.

Hence, Applicant respectfully submits that a *prima facie* case of anticipation has not been established and respectfully requests the Examiner to withdraw the outstanding rejection as applied to claim 27.

Conclusion

Applicant reserves all rights with respect to the applicability of the doctrine of equivalents. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Dated: August 18, 2008

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